

Overstreet, Greg (ATG)

From: Schenck, Jessica (ATG)
Sent: Tuesday, January 10, 2006 2:41 PM
To: Overstreet, Greg (ATG)
Cc: Rohr, Shelley (ATG)
Subject: FW: Model Rule Comment

-----Original Message-----

From: DIS Public Disclosure
Sent: Tuesday, January 10, 2006 2:12 PM
To: ATG WWW Public Records Requests
Subject: Model Rule Comment

I have a comment regarding the Model Public Records Disclosure Rules.

Proposed WAC 44-14-040 is the model rule describing the processing of public records requests. Comment 44-14-04004(4)(a) relates to failure to provide a record (mistakenly numbered 44-14-05004(4)(a)). Among other things, it states:

Sometimes more than one agency holds the same record. When more than one agency holds a record, and a requestor makes a request to the first agency, the first agency cannot respond to the request by telling the requestor to obtain the record from the second agency. Instead, an agency must provide access to a record it holds regardless of its availability from another agency.

The Washington State Department of Information Services provides information services to customers, including other state agencies and local governments. In the course of providing its services, DIS will possess public records that DIS considers to be its customers' public records. Upon receipt of a public records request for a customer's record, DIS' preferred practice is to ask the requestor to withdraw the request and seek the record from the customer/public agency. If the requestor chooses to instead reiterate its request to DIS, DIS will process the request with appropriate notice to the customer agency.

DIS believes this approach is appropriate under the Public Records Act. However, the portion of the comment quoted above could be read to disallow this practice. We do not believe it is your intent to disallow DIS' practice. We believe it is your intent to direct public agencies that it is not permissible to refuse a public records request and insist that a requestor seek the record from another agency. That is not DIS' practice. While DIS asks that the requestor seek the record from the customer agency, DIS does not refuse the request and will process the request if that is what the requestor prefers.

We would like to see an adjustment to the above-quoted comment so that it cannot be read to disallow DIS' practice.

Brian Jensen
DIS Public Disclosure Officer